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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1937

No. 230

NATURAL GAS PIPELINE COMPANY OF AMERICA,
APPELLANT,

vs.

JAMES M. SLATTERY, ANDREW OLSON, CHARLES E. BYRNE, ET AL., ETC.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

FILED JULY 20, 1937.

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IN UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In Equity. No. 15562.

NATURAL GAS PIPELINE COMPANY OF AMERICA, a Corporation,

vs.

JAMES M. SLATTERY, ANDREW OLSON, CHARLES E. BYRNE, James D. Marnane and Harry A. Barr, the Persons Constituting the Illinois Commerce Commission of the State of Illinois, and Otto Kerner, Attorney General of the State of Illinois.

BILL OF COMPLAINT OF NATURAL GAS PIPELINE COMPANY OF AMERICA, A CORPORATION—Filed March 11, 1937

To the Honorable Judges of the District Court of the United States for the Northern District of Illinois, Eastern Division:

Natural Gas Pipeline Company of America, Plaintiff, brings this, its bill of complaint, against the defendants, James M. Slattery, Andrew Olson, Charles E. Byrne, James D. Marnane and Harry A. Barr, the persons constituting the Illinois Commerce Commission of the State of Illinois, and Otto Kerner, Attorney General for the State of Illinois, and for its cause of action alleges:

1. The plaintiff, Natural Gas Pipeline Company of America, formerly Continental Construction Corporation, is a corporation organized in 1930 under and existing by virtue of the laws of the State of Delaware, is a citizen and resident of the State of Delaware, has offices at 19-20 Dover Green, Dover, Delaware, and at 20 North Wacker Drive, Chicago, Illinois, and brings this suit in its own behalf.

2. The defendants, James M. Slattery, Andrew Olson, Charles E. Byrne, James D. Marnane and Harry A. Barr, are the persons who presently constitute the Illinois Commerce Commission, which is an administrative body created by and acting under and pursuant to an act of the General

Assembly of the State of Illinois, entitled, "An Act Concerning Public Utilities", approved June 29, 1921 and in force July 1, 1921, hereinafter referred to as "Public Utilities Act". Said defendants will hereinafter be referred to collectively as "Illinois Commerce Commission." The defendant, Otto Kerner, is the Attorney General of the State of Illinois and is the legal counsel for the Illinois Commerce Commission, charged with the duty of commencing and conducting suits and proceedings to enforce the orders of the Commission and the provisions of the Public Utilities Act, and to recover and enforce the fines and penalties im- [fol. 4] posed by the Public Utilities Act for its violation, or the violation or non-obedience of the orders of the Illinois Commerce Commission. Each of said defendants is a resident and a citizen of the State of Illinois and subject to the jurisdiction of this Court.

3. This is a suit of a civil nature, arising under the Constitution and the laws of the United States of America, between citizens of different states, and within the equity jurisdiction of the District Court of the United States, and is brought for the purpose of enjoining the enforcement of a certain order of said Illinois Commerce Commission dated March 3, 1937, and the matter in controversy, exclusive of interest and costs, exceeds the sum of Three Thousand Dollars ($3,000).

4. Plaintiff is engaged in the sale, transportation and delivery of natural gas from a point or points in the State of Oklahoma to distributors and consumers of natural gas in the states of Kansas, Nebraska, Iowa and Illinois. Said natural gas is transported from said point or points in the State of Oklahoma to said consumers or distributors of natural gas in the States of Kansas, Nebraska, Iowa and Illinois by means of a system of pipe lines and pumping stations. Plaintiff's business and commerce is wholly interstate and national in character, and plaintiff is not engaged in intrastate commerce within the State of Illinois. Plaintiff has not qualified to do an intrastate business within the State of Illinois under the terms and provisions of the laws of the State of Illinois, and is not a public utility nor subject to the jurisdiction or control of the Illinois Commerce Commission under said Public Utilities Act.

5. On or about the 25th day of July, A. D. 1931 the plaintiff, then known as Continental Construction Corporation, and Chicago District Pipeline Company, an Illinois corporation, made and executed a certain agreement in writing dated July 25, 1931 for the sale of natural gas to the said Chicago District Pipeline Company, a true copy of which is attached hereto as Exhibit A. On or about the 31st day of December, A. D. 1935 the plaintiff and the Chicago District Pipeline Company made and executed a certain agreement of forebearance, a true copy of which it attached hereto as Exhibit B.

6. Chicago District Pipeline Company is engaged in the sale, transportation and delivery of natural gas within the State of Illinois, and plaintiff is informed and believes that said Chicago District Pipeline Company is solely engaged in intrastate commerce within the State of Illinois and is a public utility within the scope and meaning of the Public [fol. 5] Utilities Act and is subject to and under the jurisdiction of the Illinois Commerce Commission pursuant to the terms and provisions of the Public Utilities Act.

7. On or about the 17th day of November, A. D. 1936 the Illinois Commerce Commission issued a certain citation against the Chicago District Pipeline Company, a true copy of which is attached hereto as Exhibit C, and the Chicago District Pipeline Company appeared in response to said citation. Thereafter hearings were instituted by said Illinois Commerce Commission on said citation, and on the third day of March, 1937, and after the Chicago District Pipeline Company had closed its evidence, completed its proof and rested its case, an order was entered by said Illinois Commerce Commission in said cause, directing and commanding the plaintiff to file forthwith with said Illinois Commerce Commission, and on or before the 15th day of March, A. D. 1937, a true and accurate report as to the cost of the property of the plaintiff which is used in supplying natural gas to said Chicago District Pipeline Company and a statement of income and expenses in connection with supplying gas to said Chicago District Pipeline Company, or to report to said Illinois Commerce Commission, in substitution thereof, a true and accurate statement as to the cost of all its property or properties used by it in the business of transporting and selling natural gas, together with